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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,546	05/26/2005	Anja Patten	2235USWO	9817
43896	7590	08/27/2007		
ECOLAB INC. MAIL STOP ESC-F7, 655 LONE OAK DRIVE EAGAN, MN 55121			EXAMINER DOUYON, LORNA M	
			ART UNIT 1751	PAPER NUMBER
			MAIL DATE 08/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/536,546	Applicant(s) PATTEN ET AL.	
	Examiner Lorna M. Douyon	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-21 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-21, 23-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. This action is responsive to the amendment filed on June 20, 2007.
2. Claims 19-21, 23-30 are pending.
3. The rejection of claims 26 and 29 under 35 U.S.C. 112, second paragraph is withdrawn in view of Applicants' amendment.
4. The rejection of claims 19-23 and 30 under 35 U.S.C. 102(a) as being anticipated by Joubert et al. (WO 03/035819), hereinafter "Joubert" is withdrawn in view of Applicants' submission of a certified English translation of the foreign priority papers.
5. The rejection of claims 24, 26 and 27 under 35 U.S.C. 103(a) as being unpatentable over Joubert, as applied to the above claims, is withdrawn in view of Applicants' submission of a certified English translation of the foreign priority papers.
6. The rejection of claims 28-29 under 35 U.S.C. 103(a) as being unpatentable over Joubert as applied to the above claims, and further in view of Heile et al. (US Patent No. 5,759,988), hereinafter "Heile" is withdrawn in view of Applicants' submission of a certified English translation of the foreign priority papers.

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7. The rejection of claims 19-21, 23-27 and 30 under 35 U.S.C. 103(a) as being unpatentable over Ferrara et al. (US Patent No. 3,557,006) is withdrawn in view of Applicants' amendment.

8. The rejection of claims 19-21, 23-24, 26-28 and 30 under 35 U.S.C. 103(a) as being unpatentable over Menke et al. (US Patent No. 5,759,974) is withdrawn in view of Applicants' amendment.

9. The rejection of claim 29 under 35 U.S.C. 103(a) as being unpatentable over Menke as applied to the above claims, and further in view of Bellis et al. (US Patent No. 5,110,868) is withdrawn in view of Applicants' amendment.

10. Claims 19-21, 23-27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrara et al. (US Patent No. 3,557,006), hereinafter "Ferrara" in view of Lopes (US Patent No. 6,559,110).

Ferrara teaches a composite toilet bar consisting essentially of: (a) an alkaline detergent soap composition, in bar form, consisting essentially of a sodium soap of C₁₂ to C₂₂ fatty monocarboxylic acids; (b) a bath oil soap composition, in separate bar form, consisting essentially of a sodium soap of C₁₂ to C₂₂ fatty monocarboxylic acids (which is an anionic surfactant) and a cosmetically acceptable acid like phosphoric acid, adipic acid, citric acid, lactic acid and mixtures thereof; wherein the two separate bar forms are physically joined to form a single integral structure and when said composite bar is used

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as a cleaner in combination with water, the overall aqueous medium has a pH of from 4 to 7 (see claim 1). A preferred detergent soap is substantially anhydrous which contains 1% water or less (see col. 4, lines 39-41). Ferrara, however, fails to disclose the combination of citric acid, adipic acid, glutaric and/or succinic, and lactic acid, and in amounts as those recited.

Lopes, in an analogous art, teaches the incorporation of acidifying agents such as glutaric acid and/or succinic acid, among others, for microbial protection (see col. 3, lines 45-62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate glutaric acid and/or succinic acid as further acids in the toilet bar of Ferrara which comprises citric acid, adipic acid and lactic acid because such incorporation would provide microbial protection as taught by Lopes. In addition, it would have also been obvious to one of ordinary skill in the art at the time the invention was made to optimize the proportions of each of the above acids through routine experimentation for best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff* 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

11. In the alternative, claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrara in view of Lopes as applied to the above claims, and further in view of Evans (US Patent No. 4,992,193).

Ferrara and Lopes teach the features as discussed above. Ferrara and Lopes, however, fail to disclose the toilet bar comprising alkyl benzene sulfonic acid.

Evans teaches the equivalency of alkylbenzene sulphonic acid with phosphoric acid (see col. 2, lines 62-63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the phosphoric acid of Ferrara and Evans with alkylbenzene sulphonic acid because substitution of art recognized equivalents as shown by Evans is within the level of ordinary skill in the art.

12. Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrara in view of Lopes as applied to the above claims, and further in view of Tauchi et al. (JP 62045516), hereinafter "Tauchi".

Ferrara and Lopes teach the features as discussed above. Ferrara and Lopes, however, fail to disclose the toilet bar being surrounded by polyethylene.

Tauchi, in an analogous art, teaches a bath preparation in tablet form, packed in polyethylene bags (see abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to package the toilet bar of Ferrara and Lopes in polyethylene bags

because similar compositions are packaged in containers made of polyethylene bags as taught by Tauchi.

Response to Arguments

13. Applicants' arguments filed June 20, 2007 have been fully considered but they are not persuasive.

With respect to the rejection based upon Ferrara and Lopes, as they apply to the present amended claims, Applicants argue that Applicants have amended the claims to call out at least two acids selected from the group consisting of adipic, succinic, and glutaric, and Applicants have found that simply any combination of acids will not work, see E1-E4 and V1-V3 in Tables 1, 2, and 3. Applicants then argue that there is nothing in Ferrara or Lopes, either individually or in combination that would suggest the combination of acids in the invention.

The Examiner respectfully disagrees with the above arguments because, as already stated above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate glutaric acid and/or succinic acid as further acids in the toilet bar of Ferrara which comprises citric acid, adipic acid and lactic acid because such incorporation would provide microbial protection as taught by Lopes. The showing in Tables 1-3 on page 10-13 has been carefully considered, however, the showing is not commensurate in scope with the claims. The showing is only true for the specific acids shown and their respective proportions.

With respect to the rejection based upon Ferrara and Lopes in further view of Evans, Applicants argue that Ferrara and Lopes do not recognize the combination of acids used in the invention as claimed or describe the combination in a way that renders the invention obvious for the reasons discussed above, and Evans does not remedy the shortcomings of Ferrara.

The response above applies here as well.

With respect to the rejection based upon Ferrara and Lopes in further view of Tauchi, Applicants argue that Ferrara and Lopes do not recognize the combination of acids used in the invention as claimed or describe the combination in a way that renders the invention obvious for the reasons discussed above, and Tauchi does not remedy the shortcomings of Ferrara.

The response above applies here as well.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M. Douyon/
Primary Examiner
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